
HOUSE BILL No. 1385

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-35-3-6; IC 33-43-2-1; IC 36-4-9-12.

Synopsis: Enforcing city and town ordinances. Provides that an individual not admitted to the practice of law in Indiana may be appointed to represent a city or town in ordinance violation cases in city court or town court.

Effective: July 1, 2006.

Borders

January 12, 2006, read first time and referred to Committee on Local Government.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1385

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-35-3-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The prosecuting
3 attorney of the judicial circuit in which the city is located shall
4 prosecute all cases in a city court for violation of statutes.

5 (b) **Except as provided in subsection (c)**, the city attorney shall
6 prosecute all cases of city ordinance violations.

7 (c) **An individual appointed by the mayor of a city under**
8 **IC 36-1-6-11 may prosecute city ordinance violation cases in the**
9 **city court.**

10 (d) **An individual appointed by the town executive under**
11 **IC 36-1-6-11 may prosecute town ordinance violation cases in the**
12 **town court.**

13 SECTION 2. IC 33-43-2-1 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Subsection (c)
15 **does not apply to an individual who:**

16 (1) **is appointed by the mayor of a city under IC 36-1-6-11 to**
17 **prosecute city ordinance violations; and**



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(2) appears and conducts cases:

(A) only in the city court; and

(B) only to represent the city in ordinance violation cases involving ordinances of the city.

An individual referred to in this subsection is authorized to appear in the city court to represent the city in any case described in subdivision (2).

(b) Subsection (c) does not apply to an individual who:

(1) is appointed by the executive of a town under IC 36-1-6-11 to prosecute town ordinance violations; and

(2) appears and conducts cases:

(A) only in the town court; and

(B) only to represent the town in ordinance violation cases involving ordinances of the town.

An individual referred to in this subsection is authorized to appear in the town court to represent the town in any case described in subdivision (2).

(c) A person who:

(1) professes to be a practicing attorney;

(2) conducts the trial of a case in a court in Indiana; or

(3) engages in the business of a practicing lawyer;

without first having been admitted as an attorney by the supreme court commits a Class B misdemeanor.

SECTION 3. IC 36-1-6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The mayor of a city may appoint an individual who has not been admitted to the practice of law in Indiana to prosecute city ordinance violations in the city court.

(b) The executive of a town may appoint an individual who has not been admitted to the practice of law in Indiana to prosecute town ordinance violations in the town court.

SECTION 4. IC 36-4-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. The head of the department of law shall:

(1) manage the legal affairs of the city;

(2) subject to IC 33-35-3-6(c) and IC 36-1-6-11, prosecute violators of city ordinances;

(3) give legal advice to the officers, departments, boards, commissions, and other agencies of the city;

(4) draft ordinances or other legal papers for the city and its departments, boards, commissions, and other agencies when requested by the proper officer;

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- 1 (5) maintain custody of the records of ~~his~~ **the** office and turn them
- 2 over to ~~his~~ **the** successor in office;
- 3 (6) make all title searches and examine all abstracts required in
- 4 public work of any kind, including opening, widening, or
- 5 changing a street, alley, or public place;
- 6 (7) promptly commence all proceedings necessary or advisable
- 7 for the protection or enforcement of the rights of the city or the
- 8 public;
- 9 (8) use all diligence to collect costs, fees, and recoveries within
- 10 the scope of ~~his~~ **the** duties **of the department of law;**
- 11 (9) report, in writing, to the city executive all matters ~~that he~~ **the**
- 12 **head** considers important **to the department;** and
- 13 (10) report, in writing, to the city fiscal officer all judgments for
- 14 which the city is liable.
- 15 Officers, departments, boards, commissions, and other agencies of the
- 16 city may not employ attorneys without the authorization of the head of
- 17 the department of law.

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